



OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY
WATER QUALITY DIVISION

IN THE MATTER OF:
**PITTSBURG COUNTRY RURAL WATER
DISTRICT #20,**
RESPONDENT,

FACILITY NO. S-30603
PERMIT NO. OK0100625

PROBLEM:

Unpermitted Discharge(s)

CASE NO. 19-088

OKLAHOMA
DEPT. OF ENVIRONMENTAL QUALITY

APR 11 2019

FILED BY: D Ray
HEARING CLERK

ADMINISTRATIVE COMPLIANCE ORDER

This Administrative Compliance Order (“Order”) is issued under the authority vested in the Executive Director of the Oklahoma Department of Environmental Quality (“DEQ”) by 27A O.S. § 1-3-101(B), 27A O.S. § 2-3-502, 27A O.S. § 2-6-105. This Order addresses violations of the Oklahoma Environmental Code, specifically, the Oklahoma Pollutant Discharge Elimination System Act, 27A O.S. §§ 2-6-201 through 2-6-206, *et seq.*, and the Oklahoma Administrative Code (“OAC”) Title 252, Chapter 606 “Oklahoma Pollutant Discharge Elimination Systems Standards” (“OPDES”).

FINDINGS OF FACT

1. Respondent owns and operates a publicly owned treatment works (“POTW”) that serves the residents of Pittsburg County, Oklahoma. The POTW consists of wastewater collection lines, appurtenances, and an undersized three-cell total retention lagoon system (“WWTP”). The WWTP is located in the NE $\frac{1}{4}$, SE $\frac{1}{4}$ Section 31, Township 9 North, Range 17 East of the Indian Meridian, Pittsburg County, Oklahoma.
2. On October 14, 2011, Respondent was approved to construct a five-cell total retention lagoon system. In Respondent’s plans and specifications, Respondent requested a phased approach for construction of its facility. Initially Respondent only submitted plans and specifications to DEQ for approval to construct three of the five cells, noting that plans and specifications would be submitted for the remaining two lagoon cells at a later time.

3. Respondent never constructed the remaining two lagoons and in fact continued to develop the lands set aside for constructing the additional lagoon cells.

4. Seeking to abandon its total retention lagoon system, Respondent applied for and was issued an OPDES Permit on November 9, 2017. The Permit authorizes the POTW to discharge treated wastewater effluent to an unnamed tributary of Lake Eufaula from an approved wastewater treatment facility. The OPDES Permit also contained a compliance schedule for construction of a new wastewater treatment facility. Respondent, however, failed to meet the deadlines of the compliance schedule contained in the OPDES Permit for construction of a new wastewater treatment plant. As of the date of this Order, Respondent has failed to begin construction of its discharging facility. Until the wastewater treatment facility is constructed and operational, Respondent is prohibited from discharging any untreated wastewater into any waters of the State.

5. Respondent has a significant history of unapproved discharges from its total retention lagoons. On March 7, 2018, Respondent discharged approximately three million (3,000,000) gallons of partially treated wastewater from an unapproved outfall into Lake Eufaula. Respondent has continued to discharge from its total retention lagoon system into Lake Eufaula: a) March 26, 2018 (5,000-10,000 gallons), b) September 23, 2018 (unknown amount), c) December 31, 2018 (unknown amount)¹, d) January 9, 2019 (392,000 gallons), e) February 13, 2019 (56,800 gallons), and f) March 25, 2019 (34,160 gallons). The volumes referenced for the amounts discharged are merely rough estimates since Respondent does not have a flow meter attached to the pump used to pump the partially treated effluent over the tops of the lagoons dikes and into the lake.

6. On March 6, 2019, representatives for Respondent met with DEQ to explain how Respondent intends to stop the unpermitted discharges. Respondent and DEQ agreed to a schedule for completion of a wastewater treatment plant. DEQ also notified Respondent that any further unpermitted bypasses from the lagoons would be assessed separately as unpermitted discharges. As an interim measure, Respondent proposed construction of a land application system to help alleviate the need for Respondent to discharge wastewater directly into the lake before the wastewater treatment plant is completed. Respondent agreed to submit a construction permit application to DEQ to construct and operate an approvable temporary land application system.

¹ Discharges that occurred in 2018 were addressed with a penalty assessment in DEQ Consent Order No. 19-010.

7. On March 25 and 26, 2019, DEQ conducted inspections at Respondent's WWTP and discovered Respondent was discharging untreated wastewater through an unpermitted land application system.

8. Based on Respondent's continued unapproved discharges and construction of an unpermitted land application site, the following Order is being issued.

CONCLUSIONS OF LAW

9. DEQ has regulatory jurisdiction and authority in this matter, and Respondent is subject to the jurisdiction and authority of DEQ under Oklahoma law 27A O.S. § 1-3-101(B), and 27A O.S. §§ 2-6-105 and 2-6-201 through 2-6-206.

10. 27A O.S. § 2-6-105(A) states, “[i]t shall be unlawful for any person to cause pollution of any waters of the state or to place or cause to be placed any wastes in a location where they are likely to cause pollution of any air, land or waters of the state. Any such action is hereby declared to be a public nuisance.” **By allowing unpermitted discharges of untreated sewage to occur, Respondent violated 27A O.S. § 2-6-105(A).**

11. 27A O.S. § 2-6-205(A) states, “[i]t shall be unlawful for any facility, activity or entity regulated by the Department pursuant to the Oklahoma Pollutant Discharge Elimination System Act to discharge any pollutant into waters of the state or elsewhere without first obtaining a permit from the Executive Director.” **DEQ alleges that by allowing unpermitted discharges of untreated sewage to occur, Respondent violated 27A O.S. § 2-6-205(A).**

12. OAC 252:627-1-3(a) states, “[n]o one shall construct, modify or operate a water reuse system without first obtaining a Permit to Construct pursuant to OAC 252:656.” Effluent from Respondent’s total retention lagoon system is a Category 3 reclaimed wastewater and requires a permit to construct issued by DEQ before Respondent may land apply or irrigate using the effluent. **DEQ alleges that by constructing a land application site without first obtaining a permit to construct, Respondent violated 252:627-1-3(a).**

ORDER

13. Based on the Findings of Fact and Conclusions of Law, it is **ordered by the Executive Director as follows:**

14. The Oklahoma Environmental Quality Code, 27A O.S. §§ 2-3-502(B) and (K), and The Oklahoma Pollutant Discharge Elimination System Act, 27A O.S. §§ 2-6-201 through 2-6-206, authorizes DEQ to seek penalties of up to Ten Thousand Dollars (\$10,000.00) per day for each violation of the Code and the associated rules. Based on the facts and circumstances of this case, DEQ assesses a total penalty of Thirty-Three Thousand Seven Hundred Fifty Dollars (\$33,750.00). DEQ agrees to waive Ten Thousand Dollars (\$10,000.00) of the total assessed penalty if Respondent constructs an *approvable* land application system **no later than May 1, 2019**.

15. Respondent shall pay the remaining cash penalty in the amount of Twenty-Three Thousand Seven Hundred Fifty Dollars (\$23,750.00) to DEQ within forty-five (45) days of receipt of this ACO by Respondent. Payment shall be by check or money order payable to the Oklahoma Department of Environmental Quality (or ODEQ), showing the Case Number of this Administrative Compliance Order, and delivered to:

Accounts Receivable
Financial & Human Resources Management
Department of Environmental Quality
P.O. Box 2036
Oklahoma City, OK 73101-2036

GENERAL PROVISIONS

16. Respondent shall allow agents of DEQ entry onto Respondent's property, at reasonable times and without advance notice, for the purposes of inspecting, sampling, testing, records review and other authorized activities to assess compliance with Oklahoma statutes and rules and this Order. If Respondent is required to sample or test, Respondent shall give DEQ reasonable notice of the sampling or testing date and time and allow DEQ to observe and/or split-sample.

17. This Order is in addition to any other remedies provided by law and does not preclude DEQ from seeking other relief as appropriate.

NOTICE OF OPPORTUNITY TO REQUEST HEARING

18. This Order is entered under the authority of 27A O.S. §§ 2-6-201 through 2-6-206 and 2-3-502. This Order will automatically become final unless, no later than fifteen days after it is served, Respondent submits to DEQ a written request for a hearing on this Order. Such request for hearing shall be directed to:

Administrative Hearing Clerk
Department of Environmental Quality
P. O. Box 1677
Oklahoma City, OK 73101-1677

The request for hearing must specify the nature of the matters within this Order that Respondent wishes to have reviewed at the hearing.

19. If a hearing is requested, it will be scheduled promptly and Respondent will be notified of the time and place of the hearing. The scope of the hearing will be limited to the matters raised in the request for hearing, unless otherwise permitted by the Administrative Law Judge for good cause. The hearing will be conducted in accordance with the Oklahoma Administrative Procedures Act. The Administrative Law Judge may schedule pre-hearing conferences as he or she deems necessary.

20. Respondent shall be present and may be represented by an attorney at the hearing. Respondent or counsel may present evidence and argument to show why this Order should be set aside or modified.

21. On the basis of the hearing record, the Executive Director of DEQ will sustain, set aside or modify the Order.

OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY:



**SCOTT A. THOMPSON
EXECUTIVE DIRECTOR**

Dated: 4-11-19

CERTIFICATE OF MAILING

I certify that on this 12th day of April, 2019, I mailed a true and correct copy of Administrative Compliance Order 19-088 to:

Ms. Kay Robbins Wall
PO Box 769
Eufaula OK 74432

Debbie Ray
Debbie Ray
Administrative Hearing Clerk
Department of Environmental Quality
Office of General Counsel
PO Box 1677
Okla. City OK 73101-1677
(405) 702-7177